

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7015      PCB VMAS 14-01      Military and Veteran Support

**SPONSOR(S):** Veteran & Military Affairs Subcommittee, Smith and others

**TIED BILLS:**      **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Veteran & Military Affairs Subcommittee	12 Y, 0 N	Dugan	Kiner
1) Appropriations Committee		Perkins	Leznoff
2) Economic Affairs Committee			

### SUMMARY ANALYSIS

House Bill 7015 amends and revises Florida law administered by the Florida Department of Military Affairs (FDMA) and the Florida Department of Veterans' Affairs (FDVA). In addition to technical and conforming changes, the bill:

- waives out-of-state fees for honorably discharged veterans of the United States Armed Forces, the United States Reserve Forces, and the National Guard. By taking advantage of this waiver, an eligible veteran may save up to \$15,000. This provision is titled the "Congressman C.W. Bill Young Veteran Tuition Waiver Program";
- appropriates \$14,500,000 in recurring funds to the Florida Department of Military Affairs to pay the tuition and fees, not to exceed the in-state rate, for certain deployed Florida National Guard members at a state university or Florida College System institution;
- appropriates \$1,000,000 in nonrecurring funds to the Florida Department of Military Affairs for information technology upgrades to administer and audit its tuition and fee assistance program;
- updates state law to adopt the most recent version of the federal Manual for Courts-Martial for use by the Florida National Guard;
- creates the Florida Veterans' Walk of Honor and Florida Veterans' Memorial Garden;
- revises Florida's veterans' preference in employment statutes;
- revises the residency requirements for admission to the Florida State Veterans' Domiciliary Home and the state veterans' nursing homes;
- extends a current law driver license exemption and current law driver license extension to include the servicemember's spouse, and the dependents who reside with him or her;
- revises the Florida Department of Business and Professional Regulation licensure fee waiver program for veterans, and includes spouses of veterans;
- revises the Florida Department of Health application requirements for a temporary certificate for practice in areas of critical need; and
- revises the Florida Department of Business and Professional Regulation application requirements for a license to become a certified designated representative (CDR) for a prescription drug wholesale distributor.

The bill appropriates \$14,500,000 in recurring General Revenue funds to the FDMA to pay the full tuition and fees for all eligible Florida National Guard members. For FY 2014-2015, \$1,000,000 in nonrecurring General Revenue funds are appropriated to the FDMA for information technology upgrades to accommodate the administration and auditing of the tuition and fee assistance program. Additionally, Florida colleges and universities will experience an estimated loss of \$11.5 million in tuition and fee revenue as a result of additional student veterans being exempt from the requirement to pay out-of-state tuition and fees. Other provisions in the bill appear to have an indeterminate fiscal impact on state and local government revenues and expenditures (See the Fiscal Analysis Section).

The bill has an effective date of July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Online Educational Dollars for Duty (Section 1)**

###### **Current Situation**

###### **Florida National Guard**

The Florida National Guard (Guard) consists of nearly 12,000 members,<sup>1</sup> with 9,900 National Guard personnel and 2,000 Air National Guard personnel.<sup>2</sup>

The FDMA provides administrative support and management oversight to the Guard, and provides units and personnel ready to support national security objectives, to protect the public safety of citizens, and to contribute to national, state and community programs that add value to the nation and to the State of Florida.<sup>3</sup> Directly responsive to the Governor of Florida, the FDMA and the Guard together operate within the policy guidance and fiscal framework of both federal and state authorities.<sup>4</sup>

###### **Educational Dollars for Duty Program**

The FDMA administers the Educational Dollars for Duty (EDD) program to provide educational benefits to certain active Guard members. The EDD program was created in 1997 and is subject to annual appropriations from the Florida Legislature. Appropriations for the EDD program in 2013 were \$1.78M (recurring) and \$1.69M (nonrecurring) from the General Revenue Fund. During the 2012-2013 school year, approximately 1,054 members used the EDD program.<sup>5</sup>

The Adjutant General is responsible for developing the EDD program for members in good standing of the Guard who enroll in an authorized course of study at a public or private accredited institution of higher education in the state.<sup>6</sup> Generally, courses authorized for the program must be courses which are for credit and that meet degree requirements.<sup>7</sup> The Adjutant General may determine which courses are not authorized for the program.<sup>8</sup> For instance, courses that do not meet the requirements for completion of career training are not authorized for the program.<sup>9</sup>

Subject to appropriations, the FDMA pays directly to the educational institution the full cost of tuition and fees for required courses completed by current, eligible members of the Guard.<sup>10</sup> Members are eligible to use the program upon enlistment.<sup>11</sup> If a member is enrolled in a private college or university or a private vocational-technical program, the FDMA will pay up to the average in-state rate.<sup>12</sup>

###### **Eligibility**

In order to be eligible for participation in the EDD program, a Guard member must:<sup>13</sup>

- be 17 years of age or older;
- be presently domiciled in the state;

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<sup>1</sup> Adjutant General's Annual Report for the 2012 Fiscal Year.

<sup>2</sup> Florida National Guard website, available at: [http://www.floridaguard.army.mil/?page\\_id=7](http://www.floridaguard.army.mil/?page_id=7) (last viewed January 14, 2014).

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> Per email correspondence with FDMA staff, December 3, 2013, on file with Veteran and Military Affairs Subcommittee staff.

<sup>6</sup> s. 250.10(7), F.S.

<sup>7</sup> s. 250.10(7)(b)2., F.S.

<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> s. 250.10(8), F.S.

<sup>11</sup> Id.

<sup>12</sup> Id.

<sup>13</sup> s. 250.10(7), F.S. and r. 70-2.001, F.A.C.

- be an active drilling member and in good standing in the Guard at the beginning of and throughout the entire academic term for which benefits are received;
- maintain continuous satisfactory participation in the Guard for any school term for which exemption benefits are received;
- upon enrollment in the EDD program, complete a memorandum of agreement to comply with the rules of the program and serve in the Guard for the period specified in the member's enlistment or reenlistment contract; and
- not have a master's degree obtained through the program.

#### Penalties and Reimbursement

The Adjutant General develops the EDD program by promulgating rules for the overall policy, guidance, administration, implementation, and proper use of the program.<sup>14</sup> By law, these rules must provide eligibility guidelines and procedures for restitution when a guard member fails to comply with program requirements.<sup>15</sup>

Penalties for noncompliance with program requirements include, but are not limited to, the following:

- if a Guard member receives payment of tuition and fees for any academic term and fails to maintain satisfactory participation in the Guard during that academic term, the Guard member shall reimburse the FDMA all tuition charges and student fees for the academic term for which the member received payment;
- if a Guard member leaves the Guard during the period specified in the member's enlistment or reenlistment contract, the Guard member shall reimburse the FDMA all tuition charges and student fees for which the member received payments, regardless of whether the obligation to reimburse the FDMA was incurred before, on, or after July 1, 2009, unless the Adjutant General finds that there are justifiable extenuating circumstances;
- if a Guard member's service is terminated or the Guard member is placed on scholastic probation while receiving payments, the member shall reimburse the FDMA all tuition charges and student fees for the academic term for which the member received payment;
- if a Guard member defaults on any reimbursement made under the program, the FDMA may charge the member the maximum interest rate authorized by law.<sup>16</sup>

Pursuant to Florida law, any student enrolled at a state college or university shall not incur academic or financial penalties by virtue of performing military service on behalf of our country.<sup>17</sup> Thus, any student who withdraws from a course due to military service may either complete the course at a later date or receive a full refund of tuition and fees paid for such course.<sup>18</sup>

#### Online Education

During the 2010-2011 school year, 40 percent of students in the Florida State University System (SUS) and the Florida College System (FCS) were taking at least one online course, compared to 31 percent nationally.<sup>19</sup> As of 2012, SUS and FCS institutions offer approximately 700 online programs.<sup>20</sup> The number of veterans who currently reside in the state of Florida and are taking an online course at its public universities is unknown.

#### Florida College System \$10,000 Degree Program

In November 2012, Governor Scott issued his \$10,000 degree challenge to the Florida College System. The challenge was to develop programs that would cost students no more than \$10,000 for baccalaureate degrees that lead to good jobs. All 24 baccalaureate-granting colleges in the Florida College System accepted the challenge and will offer select degrees that meet local and community

<sup>14</sup> s. 250.10(7)(c), F.S.

<sup>15</sup> Id.

<sup>16</sup> s. 250.10(8)(b)1.-4., F.S.

<sup>17</sup> s. 1004.07, F.S.

<sup>18</sup> Id.

<sup>19</sup> Parthenon Group Summary: Post-Secondary Online Expansion in Florida, November 12, 2012.

<sup>20</sup> Id.

needs at a very affordable price.

### Complete Florida

During the 2012 legislative session, the Florida Legislature created the Complete Florida Degree Program, which was established for the purpose of recruiting, recovering, and retaining the state's adult learners and assisting them in completing an associate degree or a baccalaureate degree that is aligned with high-wage, high-skill workforce needs.<sup>21</sup> The Complete Florida Degree Program's implementation is being led by the University of West Florida, in coordination with Florida College System, State University System, and private postsecondary institutions.<sup>22</sup>

The Complete Florida Degree Program will specifically seek out students who have successfully completed college-level coursework in multiple semesters, but have left an institution, in good standing, before completing a degree.<sup>23</sup> According to figures provided by Complete Florida Degree Program staff at the University of West Florida, over 2 million adults have stopped out of college in Florida.<sup>24</sup>

The Complete Florida Program will provide program participants with a single point of access to information and links to innovative online and accelerated distance learning courses, student and library support services, and electronic resources that will guide the program participant toward the successful completion of a postsecondary degree.<sup>25</sup>

Military veterans, as well as active duty members of the United States Armed Forces, will receive priority for participation in the program.<sup>26</sup>

According to its statutory directive, the Complete Florida Degree Program must be implemented by the end of the 2013-2014 academic year.<sup>27</sup>

### **Effect of Proposed Change**

The bill amends s. 250.10, F.S., to require the Adjutant General to adopt rules that provide guidelines for authorizing courses leading to a degree offered by a Florida College System institution as part of the Governor's \$10,000 Degree Challenge, courses offered through the Complete Florida Degree Program, and online courses.

The bill amends s. 250.10(8), F.S., to allow the Adjutant General, to reimburse student textbook and instructional material costs in accordance with limits set each fiscal year based on funding availability and the Adjutant General's discretion.

The bill amends s. 250.10(7) F.S., to require EDD program participants to sign a waiver permitting educational institutions that accept funding from the EDD program to provide course enrollment, course withdrawal, course cancellation, course completion or failure, and grade verification directly to the FDMA Education Services Office.

The bill also appropriates \$14,500,000 in recurring funds from the General Revenue Fund to the Department of Military Affairs to pay the full tuition and fees, not to exceed the in-state rate at the applicable institution, for all Florida National Guard members deployed on or after October 31, 2013. As of October 31, 2013, 586 Florida National Guard members were deployed. To be eligible to receive tuition and fee assistance from this appropriation, a Guard member must be generally eligible for the EDD program and must enroll, within one year after the Guard member's deployment ends, in a degree program at a State University System institution, or must enroll at a Florida College System institution. An eligible Guard member may attend classes in person or online.

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<sup>21</sup> s. 1006.735, F.S.

<sup>22</sup> Id.

<sup>23</sup> Id.

<sup>24</sup> Presentation before the House Education Committee on November 13, 2013.

<sup>25</sup> s. 1006.735, F.S.

<sup>26</sup> Presentation before the House Education Committee on November 13, 2013.

<sup>27</sup> Id.

The bill also appropriates \$1,000,000 in nonrecurring funds from the General Revenue Fund to the Department of Military Affairs for the purpose of information technology upgrades to accommodate the administration and auditing of the Educational Dollars for Duty program. (Section 2)

### **Manual for Courts-Martial (Section 3)**

#### **Current Situation**

The state National Guards are governed by the concurrent laws of the federal and respective state governments. All provisions of federal law which relate to the Florida National Guard, and which are not inconsistent with the state constitution or state law, are part of the military laws of Florida.<sup>28</sup>

The federal Uniform Code of Military Justice (UCMJ) contains the substantive and procedural laws governing the military justice system.<sup>29</sup> For the purposes of conducting Courts-Martial, federal regulations have provided for a Manual for Courts-Martial, of which the 2008 version has been adopted into state law for use by the Florida National Guard.<sup>30</sup> The Manual for Courts-Martial outlines procedural rules and punishments for violations of crimes.<sup>31</sup>

Florida National Guard members are subject to the Uniform Code of Military Justice, as well as state law, at all times during their enlistment or appointment, whether serving in this state or out-of-state.<sup>32</sup>

Federal regulations require states to annually review the Manual for Courts-Martial to remain current with changes to the UCMJ.<sup>33</sup>

#### **Effect of Proposed Change**

This bill adopts the 2012 version of the Manual for Courts-Martial.

### **Florida Veterans' Walk of Honor and Florida Veterans' Memorial Garden (Section 4)**

#### **Current Situation**

##### **Veterans in Florida**

Florida has the third largest population of veterans in the nation at over 1.5 million, behind only California and Texas.<sup>34</sup> Florida has more than 113,000 veterans from World War II, the largest number in the nation.<sup>35</sup> In addition, more than 231,000 Operation Enduring Freedom, Operation Iraqi Freedom and Operation New Dawn servicemembers and veterans claim Florida as their home of record.<sup>36</sup>

##### **Direct Support Organization**

Current Florida law authorizes the FDVA to establish a direct support organization (DSO).<sup>37</sup> The DSO relies on public donations to fund programs that benefit veterans and their families.

##### **Military Recognition by Florida Legislature**

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<sup>28</sup> s. 250.03, F.S.

<sup>29</sup> 10 U.S.C. 47.

<sup>30</sup> Section 814, Art. 2(a)(3) of the UCMJ excludes National Guard members from its provisions unless they are activated for federal service. However, s. 250.35(1), F.S., adopts the UCMJ and the Manual for Courts-Martial for use by the Florida National Guard.

<sup>31</sup> r. 101, Manual for Courts-Martial, United States (2012).

<sup>32</sup> s. 250.351, F.S.

<sup>33</sup> Executive Order 12473 (July 13, 1984). 10 U.S.C.

<sup>34</sup> FDVA, Annual Report Fiscal Year 2012-13, Facts and Figures.

<sup>35</sup> Id.

<sup>36</sup> Id.

<sup>37</sup> s. 292.055, F.S.

The Florida Legislature recognizes the military service of Florida residents through the Florida Veterans' Hall of Fame and the Florida Medal of Honor Wall. The Florida Veterans' Hall of Fame recognizes and honors those military veterans who, through their works and lives during or after military service, made a significant contribution to the State of Florida.<sup>38</sup> The Florida Medal of Honor Wall recognizes and honors those who are accredited, or associated by birth, to the State of Florida, who through their conspicuous bravery and gallantry during wartime, and at considerable risk to their own lives, earned the Medal of Honor.<sup>39</sup>

There are no funds generated by the Veterans' Hall of Fame or Medal of Honor Wall for the benefit of veterans or their families.

### **Effect of Proposed Change**

The bill creates the Florida Veterans' Walk of Honor (Walk of Honor) and the Florida Veterans' Memorial Garden. The Walk of Honor and Memorial Garden are to be administered by the FDVA's direct support organization. The bill directs the Florida Department of Management Services (FDMS) to set aside an area for the Walk of Honor on the Capitol grounds. The direct support organization will sell memorial bricks inscribed with the name, rank, military service, award, and other information to be used for the Walk of Honor's construction. Further, the bill directs the Florida Department of Management Services (FDMS) to set aside an area for the Memorial Garden. The FDMS must consult with the FDVA and the FDVA's direct support organization regarding the design and theme of the area.

The bill states that the Walk of Honor and Memorial Garden will not require the appropriation of state funds. The FDVA's direct support organization will take orders from the public for the memorial bricks, which will generate a recurring funding stream for the support of veterans and for the construction of the Memorial Garden.

### **Veterans' Preference in Employment (Sections 5-8)**

#### **Current Situation**

##### **Employment Preference Generally**

The Florida Statutes have included some form of veterans' employment preference since 1947.<sup>40</sup> The purpose of the veterans' preference statute is to reward those who served their country in time of need and to recognize the qualities and traits developed by military service.<sup>41</sup>

Currently, Florida law requires all state government entities, counties, cities, towns, villages, special tax school districts, and special districts (government employers) to grant employment preference in hiring and retention to certain veterans, and spouses of certain military servicemembers, who are Florida residents.<sup>42</sup> All advertisements and written job announcements must include notice that veterans and eligible spouses receive preference in employment and are encouraged to apply for the position.<sup>43</sup> Florida's veterans' preference in employment statutes do not require a government employer to hire an unqualified veteran over a more qualified non-veteran.<sup>44</sup>

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<sup>38</sup> s. 265.003, F.S.

<sup>39</sup> s. 265.002, F.S.

<sup>40</sup> s. 1, ch. 24201, L.O.F. (1947).

<sup>41</sup> *Yates v. Rezeau*, 62 So.2d 726, 727 (Fla. 1952); Ch. 98-33, at 244, L.O.F.

<sup>42</sup> Section 295.07(1), F.S., requires the state and political subdivisions of the state to comply with veterans' preference requirements. Section 1.01, F.S., defines "political subdivision" as "counties, cities, towns, villages, special tax school districts, special road and bridge districts, and all other districts in the state. Rule 55A-7.004, F.A.C., contains a definition applicable specifically to veterans' preference statutes, and includes all the entities listed above, but also includes all Career Service System positions under the Florida Community College System and the School for the Deaf and the Blind among those required to give employment preference to veterans and spouses of veterans.

<sup>43</sup> s. 295.065, F.S.

<sup>44</sup> *Harris v. State, Public Employees Relations Com'n.*, 568 So.2d 475 (Fla. 1st DCA 1990).

In addition, a potential government employer is not required to pass a person who is eligible for veterans' preference through the screening process if he or she does not meet the minimum qualifications for the position.<sup>45</sup>

Government employers are not required to track the number of persons who claim veterans' preference; therefore, statistics indicating the number of eligible persons who requested veterans' preference, or the number of persons who were hired as a result of the preference requirements, are not always available. In 2012, the total number of job applicants who claimed veterans' preference on their application and were hired by government employers was 585.<sup>46</sup>

Unlike government employers, private employers in Florida are not required to comply with veterans' preference requirements.

Florida has the third largest population of veterans in the nation at over 1.5 million, behind only California and Texas.<sup>47</sup>

In 2012, the unemployment rate among veterans in Florida was 7.3 percent, while the national rate was 7.0 percent.<sup>48</sup>

#### Persons Eligible for Employment Preference and Exceptions

Pursuant to Florida law, the following persons are eligible to claim veterans' employment preference:<sup>49</sup>

- a. a veteran with a service-connected disability;
- b. the spouse of a military servicemember with a permanent and total service-connected disability that prevents the military servicemember from qualifying for employment; and the spouse of a military servicemember that is missing in action, was captured in the line of duty by a hostile force, or forcibly detained or interned in the line of duty by a foreign government or power;
- c. a wartime<sup>50</sup> veteran who was honorably discharged;
- d. the unremarried widow or widower of a veteran who died as a result of a service-connected disability.

Currently, members of the Florida National Guard are not eligible to claim veterans' preference unless they are deployed and provide wartime service. Further, unlike Federal law, the mother of a military servicemember who was killed or injured in action is not eligible to claim veterans' preference.

Florida law exempts the following government positions from the veterans' preference requirements:<sup>51</sup>

- positions that are exempt from the state Career Service System, including certain legislative branch personnel, judicial branch personnel, and personnel of the Office of the Governor; however, all positions under the University Support Personnel System of the State University System as well as all Career Service System positions under the Florida College System and the School for the Deaf and the Blind are included;

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<sup>45</sup> Id.

<sup>46</sup> Per email correspondence with FDVA staff, December 17, 2013, on file with Veteran and Military Affairs Subcommittee staff. According to FDVA staff, the total number of people hired reflects SES and Career Service positions that may not be eligible for veterans' preference.

<sup>47</sup> FDVA, Annual Report Fiscal Year 2012-13, Facts and Figures.

<sup>48</sup> U.S. Congress, Joint Economic Committee, Economic Overview and Outlook: Florida, available at: <http://www.jec.senate.gov/public/index.cfm?p=statebystatereport> (last viewed January 14, 2014).

<sup>49</sup> s. 295.07(1)(a)-(d), F.S.

<sup>50</sup> s. 1.01(14) To receive benefits as a wartime veteran, a veteran must have served in a campaign or expedition for which a campaign badge has been authorized or a veteran must have served during one of the following periods of wartime service: (a) Spanish-American War, including the Philippine Insurrection and the Boxer Rebellion; (b) Mexican Border Period; (c) World War I; (d) World War II; (e) Korean Conflict; (f) Vietnam Era; (g) Persian Gulf War; (h) Operation Enduring Freedom; and (i) Operation Iraqi Freedom.

<sup>51</sup> s. 295.07(4)(a)-(b), F.S.

- positions in political subdivisions of the state which are filled by officers elected by popular vote or persons appointed to fill vacancies in such offices and the personal secretary of each officer;
- members of boards and commissions;
- persons employed on a temporary basis without benefits;
- heads of departments;
- positions that require licensure as a physician, licensure as an osteopathic physician, or licensure as a chiropractic physician; and
- positions that require membership in The Florida Bar.

*If an Examination Determines Qualification for Employment*

If an examination is used to determine qualification for employment, points are added to the final examination score as follows:<sup>52</sup>

- ten points for certain veterans with a service-connected disability; for the spouse of a military servicemember with a total, permanent, service-connected disability; and for the spouse of any person missing in action, captured in line of duty by a hostile force, or forcibly detained or interned in line of duty by a foreign government or power (i.e., those listed above in points a. and b. under “Persons Eligible for Employment Preference and Exceptions”);
- five points for an honorably discharged, wartime veteran and for the unremarried widow or widower of any military servicemember who died from a service-connected disability (i.e., those listed above in points c. and d. under “Persons Eligible for Employment Preference and Exceptions”).<sup>53</sup>

In order for points to be awarded, the applicant must first obtain a qualifying score on the examination.<sup>54</sup>

Florida law requires each government employer to enter the names of persons eligible for preference on an appropriate register or list in accordance with their respective ratings.<sup>55</sup> For most positions, the names of all persons qualified to receive a ten-point preference whose service-connected disabilities have been rated to be 30 percent or more must be placed at the top of the appropriate register or employment list, in accordance with their respective ratings.<sup>56</sup> A Florida court determined that this provision gives an absolute preference for veterans to be placed at the top of the employment list only if the candidate has a 30 percent or more disability rating.<sup>57</sup>

However, the court further declared that there are no statutory provisions suggesting that veterans receiving a five or ten point exam score augmentation must be hired over more qualified non-veterans.<sup>58</sup>

*If an Examination Does Not Determine Qualification for Employment*

If an examination is not used to determine qualifications for a position, preference is given as follows:<sup>59</sup>

- first preference is given to a disabled veteran with a service-connected disability; the spouse of a military servicemember with any total, permanent, service-connected disability; and the spouse of any person missing in action, captured in line of duty by a hostile force, or forcibly detained or interned in line of duty by a foreign government or power (i.e., those listed above in points a. and b. under “Persons Eligible for Employment Preference and Exceptions”);

<sup>52</sup> s. 295.08, F.S.

<sup>53</sup> Rule 55A-7.010, F.S.C., provides further procedures for calculating points if the highest possible exam score is other than 100.

<sup>54</sup> Rule 55A-7.010(1), F.A.C.

<sup>55</sup> s. 295.08, F.S.

<sup>56</sup> Id.

<sup>57</sup> Harris v. State, Public Employees Relations Com'n., 568 So.2d 475 (Fla. 1st DCA 1990).

<sup>58</sup> Id.

<sup>59</sup> s. 295.085, F.S.

- second preference is given to honorably discharged, wartime veterans and the unremarried widow or widower of a veteran who died of a service-connected disability who possesses qualifications necessary to discharge the duties of the position involved (i.e., those listed above in points c. and d. under “Persons Eligible for Employment Preference and Exceptions”).

In 1988, the Florida Attorney General opined that:

While mandating veterans' preference during the employment selection process, Ch. 295, F.S., by providing a means for reviewing the employment of a non-veteran over a preferred veteran, contemplates that non-veterans may be hired. Based upon this statutory scheme, I am unable to conclude that veterans' preference mandates that eligible veterans be hired over non-veterans. I have found no evidence of legislative intent to require the employment of veterans in all instances.<sup>60</sup>

The FDVA is responsible for promulgating rules or procedures to ensure that eligible persons are given special consideration in the selection and retention processes of government employers.<sup>61</sup> These procedures must ensure that, for positions that do not require an examination, eligible persons are given special consideration at each step of the employment selection process and are given special consideration in the retention of employees where layoffs are necessitated.<sup>62</sup>

In 1988, the Florida Attorney General opined that veterans' preference provides special consideration for eligible veterans at each step of the employment selection process, but does not require the employment of a preferred veteran over a non-veteran who is the ‘most qualified’ applicant for the position. However, the employing agency is required to document and justify the decision to hire a non-veteran over the preferred veteran.<sup>63</sup>

#### Complaint and Appeal Process

When a government employer selects a non-veteran over a person who is eligible for veterans' preference, the eligible person may file a written complaint with the FDVA. The FDVA must investigate the complaint and may file an opinion with the Public Employees Relations Commission (PERC) as to the merit or lack of merit in each case. The FDVA must conduct all investigations within existing amounts appropriated by the Legislature.<sup>64</sup>

Jurisdiction to effectuate the purposes of the veterans' preference requirements rests with PERC for appropriate administrative determination. If, upon preliminary review, PERC agrees with the FDVA's determination that a case lacks merit and finds a complete absence of justiciable issues of either law or fact raised by the veterans' preference complaint, PERC must dismiss the complaint “without the necessity of holding a hearing.”<sup>65</sup>

When a government employer selects a non-veteran over a person who is eligible for veterans' preference, the initial burden is on the veteran to show minimal qualifications; a timely and proper application for a covered position; and that the employer selected a non-veteran over a veteran with a lesser preference. The burden then shifts to the employer to show that the non-veteran applicant was more qualified.<sup>66</sup>

If PERC determines that a violation of the veterans' preference requirements has occurred, it must order the offending agency, employee, or officer to comply with the provisions and may issue an order to compensate the veteran for the loss of any wages and reasonable attorney's fees for actual hours

<sup>60</sup> See Attorney General's Opinion 88-24

<sup>61</sup> s. 295.07(2), F.S.

<sup>62</sup> Id.

<sup>63</sup> See Attorney General's Opinion 88-24

<sup>64</sup> s. 295.11, F.S.

<sup>65</sup> Id.

<sup>66</sup> West Coast Regional Water Supply Authority v. Harris, 604 So.2d 892, 893 (Fla. 1st DCA 1992); See Also Cox v. Pasco County, 16 FPER Para. 21517 (1990); Rosete v. Department of Professional Regulation, 15 FPER Para. 20518 (1989); Varela v. Department of Health and Rehabilitative Services, 15 FPER Para. 20517 (1989).

worked, and costs of all work, including litigation, incurred as a result of the violation.<sup>67</sup> However, attorney's fees and costs may not exceed \$10,000.<sup>68</sup>

If reparation is sought through civil action in court, any agency, employee, or officer of a government employer found in violation of the veterans' preference requirements must also pay the costs of suit and reasonable attorney's fees incurred in the action and pay damages as the court may award, any law to the contrary notwithstanding.<sup>69</sup>

#### State Government Veterans' Preference Provision

With respect to non-exempt positions in the state's career service system, Florida law requires the state to grant a preference in hiring and retention to an eligible person if the eligible person meets the minimum eligibility requirements for the position and has the knowledge, skills, and abilities required for the position.<sup>70</sup> A disabled veteran employed as the result of being placed at the top of the appropriate employment list must be appointed for a probationary period of one year.<sup>71</sup> At the end of one year, if the disabled veteran's performance is satisfactory, the veteran will acquire permanent employment status and will be subject to the employment rules of the Florida Department of Management Services and the veteran's employing agency.<sup>72</sup>

#### Federal Gold Star Mother Act

Pursuant to the United States Code, federal employers are required to grant employment preference to the mother of either (a) a service-connected permanently and totally disabled veteran or (b) an individual who lost his life under honorable conditions while serving in the United States Armed Forces during specified periods of active duty, provided that:<sup>73</sup>

- her husband is totally and permanently disabled;
- she is widowed, divorced, or separated from the father and has not remarried; or
- she has remarried but is widowed, divorced, or legally separated from her husband when preference is claimed.

#### Death Benefits for Family of Military Servicemembers

The U.S. Department of Defense provides compensation to members of the United States Armed Forces through the death gratuity program. The death gratuity program provides for a special tax free payment of \$100,000 to eligible survivors of members of the United States Armed Forces, who die while on active duty or while serving in certain reserve statuses.<sup>74</sup> The death gratuity is the same regardless of the cause of death.<sup>75</sup> The longstanding purpose of the death gratuity has been to provide immediate cash payment to assist survivors of deceased members of the United States Armed Forces to meet their financial needs during the period immediately following a servicemember's death and before other survivor benefits, if any, become available.<sup>76</sup> The death gratuity is also payable if an eligible servicemember or former servicemember dies within 120 days of release or discharge from active duty, or active duty for training when the Secretary of the United States Department of Veterans Affairs determines that the death resulted from injury or disease incurred or aggravated during such duty.<sup>77</sup>

### **Effect of Proposed Change**

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<sup>67</sup> s. 295.14(1), F.S.

<sup>68</sup> Id.

<sup>69</sup> s. 295.14(2), F.S.

<sup>70</sup> s. 110.2135(1), F.S.

<sup>71</sup> s. 110.2135(2), F.S.

<sup>72</sup> Id.

<sup>73</sup> 5 U.S.C. § 2108(3)(F), (G)

<sup>74</sup> Department of Defense, Military Compensation, available at: <http://militarypay.defense.gov/benefits/deathgratuity.html> (last viewed January 14, 2014).

<sup>75</sup> Department of Defense, Military Compensation, available at: <http://militarypay.defense.gov/benefits/deathgratuity.html> (last viewed January 14, 2014).

<sup>76</sup> Id.

<sup>77</sup> Id.

The bill amends Florida's veterans' preference in employment statutes to increase the field of persons eligible for veterans' preference to include all veterans, Florida National Guard members, and Gold Star Mothers, Fathers, and legal guardians.

The bill amends the point system for positions determined by an examination as follows:

Category	Current	Proposed
Disabled Veteran	10	15
Spouse of Person With Total Disability, Missing in Action, Captured in Line of Duty, Etc.	10	10
Wartime Veteran	5	10
Un-remarried widow/widower of Person Who Died of a Service-Connected Disability	5	10
Gold Star Family	Not Included	10
Veteran	Not Included	5
National Guard/Reserve	Not Included (Unless Qualifying Under Another Provision Above)	5

Between 2007 and 2010, the FDVA received an average of approximately 136 complaints per year from veterans alleging that a government employer violated the veterans' employment preference requirements. However, the average increased to 925 complaints per year between 2011 and 2013, primarily due to increased awareness of the complaint process. Allowing a broader field of persons to claim veterans' preference may result in an increase in the number of complaints; however, the frequency and cost of potential future complaints is indeterminate. According to the FDVA, any additional complaints will be processed by the full-time employee currently assigned to the program. It should also be noted that s. 295.11, F.S., requires the FDVA to conduct all investigations within existing amounts appropriated to the FDVA.

If the number of complaints increases as a result of the proposed changes, PERC may also experience an increase in the number of complaints it must investigate and adjudicate. The frequency and cost of potential future complaints is indeterminate.

## **Florida State Veterans' Domiciliary Home and Florida State Veterans' Nursing Homes (Sections 9 and 10)**

### **Current Situation**

The State Veterans' Homes Program provides health care to eligible veterans in need of either long-term skilled nursing care or assisted living services. Care is provided to veterans with qualifying war or peacetime service, who are residents of Florida for one year immediately preceding admission, and who require skilled care as certified by a USDVA physician.<sup>78</sup> Admission criteria are based on the need to maintain a safe environment for all residents.<sup>79</sup> The skilled nursing and assisted living homes only admit those persons whose needs can be met within the accommodations and services it provides with consideration for all residents.<sup>80</sup>

### **State Veterans' Domiciliary Home**

The Robert H. Jenkins Jr. Veterans' Domiciliary Home in Lake City opened to residents in 1990.<sup>81</sup> The 149-bed assisted living facility provides a combination of housing, personalized supportive services and

<sup>78</sup> FDVA, Annual Report, FY 2012-13.

<sup>79</sup> Id.

<sup>80</sup> Id.

<sup>81</sup> FDVA, State Veterans' Homes, available at: [http://floridavets.org/?page\\_id=87](http://floridavets.org/?page_id=87) (last viewed January 14, 2014).

incidental medical care to eligible veterans.<sup>82</sup> Veterans must be able to feed and dress themselves, and must be in need of assisted living care.<sup>83</sup> In order to be eligible for residency in the State Veterans' Domiciliary Home, a veteran<sup>84</sup> must:<sup>85</sup>

- have been a resident of the state for one year immediately preceding application;
- be a resident of the state at the time of application;
- not be mentally ill, habitually inebriated, or addicted to drugs;
- not owe money to the FDVA for services rendered during any previous stay at a FDVA facility;
- have applied for all financial assistance reasonably available through governmental sources; and
- have been approved as eligible for care and treatment by the USDVA.

Admittance priority for the domiciliary home must be given to eligible veterans in the following order:<sup>86</sup>

- an eligible veteran with wartime service, who has a service-connected disability or disabilities but is not in need of hospitalization or nursing home care;
- an eligible veteran with wartime service, who has a non-service-connected disability or disabilities but is not in need of hospitalization or nursing home care;
- an eligible veteran with wartime service, other than those described above;
- an eligible veteran with peacetime service.

### State Veterans' Nursing Homes

In Florida, six state veterans' nursing homes operated by the FDVA provide full-service long-term residential nursing care to eligible veterans.<sup>87</sup> The homes are supervised 24-hours daily by registered and licensed nurses.<sup>88</sup> Five of the six skilled nursing facilities have dementia-specific wings.<sup>89</sup> The six nursing homes are located in Daytona Beach, Land O' Lakes, Pembroke Pines, Panama City, Port Charlotte, and St. Augustine.<sup>90</sup>

In order to be eligible for admittance to a state veterans' nursing home, the veteran<sup>91</sup> must:<sup>92</sup>

- be in need of nursing home care;
- have been a resident of the state for one year immediately preceding application;
- be a resident of the state at the time of application;
- not owe money to the FDVA for services rendered during any previous stay at a FDVA facility;
- have applied for all financial assistance reasonably available through governmental sources; and
- have been approved as eligible for care and treatment by the USDVA.

The FDVA director may waive the residency requirement for a veteran, who is otherwise eligible under Florida law for admittance to a home, and who is a disaster evacuee of a state that is under a declared state of emergency.<sup>93</sup>

Admittance priority for the nursing homes must be given to eligible veterans in the following order of priority:<sup>94</sup>

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<sup>82</sup> Id.

<sup>83</sup> Id.

<sup>84</sup> Veterans eligible for residency in the domiciliary home include those with wartime service, as defined in s. 1.01(14), F.S., or peacetime service, as defined in s. 296.02, F.S.

<sup>85</sup> s. 296.06(2)(a)-(f), F.S.

<sup>86</sup> s. 296.08(1)(a)-(d), F.S.

<sup>87</sup> FDVA, Annual Report, FY 2012-13.

<sup>88</sup> Id.

<sup>89</sup> Id.

<sup>90</sup> Id.

<sup>91</sup> Veterans eligible for residency in a nursing home include those with wartime service, as defined in s. 1.01(14), F.S., or peacetime service, as defined in s. 296.02, F.S.

<sup>92</sup> s. 296.36(1) F.S.

<sup>93</sup> s. 296.36(2), F.S.

<sup>94</sup> s. 296.36(3)(a)-(c), F.S.

- an eligible veteran who is a resident of the State of Florida;
- an eligible veteran who has a service-connected disability as determined by the USDVA, or was discharged or released from military service for disability incurred or aggravated in the line of duty and the disability is the condition for which nursing home care is needed;
- an eligible veteran who has a non-service-connected disability and is unable to defray the expense of nursing home care and so states under oath before a notary public or other officer authorized to administer an oath.

#### Occupancy Figures

For fiscal year 2012-2013, the total number of beds available in the Florida State Veterans' Homes Program was 869, with 720 representing nursing home beds.<sup>95</sup> According to Florida's Agency for Health Care Administration, Florida has a total of 83,229 nursing home beds with a total of 3.4 million seniors and more than 500,000 with Alzheimer's or related dementias.<sup>96</sup> The veteran population over 65 years old in Florida is estimated to be 697,000.<sup>97</sup>

During fiscal year 2012-2013, the average occupancy rate for state veterans' homes in operation two years or longer was 97 percent (see Figure One below). The Robert H. Jenkins State Veterans' Domiciliary Home in Lake City operated at an average of 86 percent (see Figure One below).

**Figure One**  
**Facility Occupancy Rates by Fiscal Year<sup>98</sup>**

	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13
Robert J. Jenkins State Veterans' Domiciliary Home, Lake City	77%	85%	85%	86%
Emory L. Bennett State Veterans' Nursing Home, Daytona Beach	88%	77%	94%	99.4%
Baldomero Lopez State Veterans' Nursing Home, Land O' Lakes	99%	99%	100%	99.4%
Alexander Nininger State Veterans' Nursing Home, Pembroke Pines	95%	98%	98%	98.8%
Clifford C. Sims State Veterans' Nursing Home, Panama City	99%	99%	100%	99.9%
Douglas T. Jacobson State Veterans' Nursing Home, Port Charlotte	97%	98%	99%	99.6%
Clyde E. Lassen State Veterans' Nursing Home, St. Augustine	N/A	23%	83%	99.1%
<b>State Veterans' Homes Program Average<sup>99</sup></b>	<b>93%</b>	<b>93%</b>	<b>96%</b>	<b>97.1%</b>

The FDVA anticipates a steep increase in demand for nursing home beds as Vietnam era veterans reach the age where nursing home care is usually required.<sup>100</sup> The number of Vietnam era veterans currently in the state (498,167) is significantly higher than the current nursing home population of World War II (113,754) and Korean Conflict era veterans (178,250).<sup>101</sup> Further, most Vietnam era veterans will be eligible for nursing home care to due illnesses and service-connected disabilities caused by exposure to Agent Orange.<sup>102</sup>

#### **Effect of Proposed Change**

The bill amends ss. 296.06(2)(b) and 296.36(1)(b), F.S., to remove the one year residency requirement to allow veterans, who meet all other requirements for admission and are currently residents of the

<sup>95</sup> FDVA, Annual Report, FY 2012-13.

<sup>96</sup> Id.

<sup>97</sup> Id.

<sup>98</sup> Id.

<sup>99</sup> Average occupancy excludes St. Augustine, which has two years to meet the Performance Measure.

<sup>100</sup> Per email correspondence with FDVA staff, November 11, 2013, on file with Veteran and Military Affairs Subcommittee staff.

<sup>101</sup> Id.

<sup>102</sup> Id.

state, immediate access to vacancies in the State Veterans' Domiciliary Home or a state veterans' nursing home.

The FDVA states that fulfilling the vacant beds in the SVDH and SVNHS would not increase the cost of operating such facilities.<sup>103</sup>

## **Driver License Exemptions for Nonresident Military Servicemembers (Sections 11 and 12)**

### **Current Situation**

#### *Driver License Exemptions for Non-Resident Military Servicemembers*

Florida law requires all persons driving a motor vehicle on a Florida highway to possess a valid driver license issued pursuant to ch. 322, F.S.<sup>104</sup> However, a non-resident who is at least 16 years of age and has a valid driver license from another state is exempt from the requirement to obtain a driver license.<sup>105</sup> Pursuant to this exemption, a non-resident military servicemember and his or her dependents stationed in Florida are not required to obtain a Florida driver license provided they possess a valid driver license issued by another state.<sup>106</sup>

Current law provides that once a non-resident accepts employment in the state or enrolls his or her children in a Florida public school, the non-resident becomes subject to the driver license provisions in ch. 322, F.S., and must obtain a Florida driver license within 30 days after the commencement of such employment or education.<sup>107</sup> Further, the spouse and dependents of the non-resident must obtain a Florida driver license within 30-days after the commencement of such employment or education.

Florida law specifically exempts an active duty military servicemember stationed in Florida from the requirement to obtain a Florida driver license when the service member enters his or her children in a Florida public school.<sup>108</sup> To be eligible for the exemption, the service member must have a valid military driving permit or a valid driver license issued by another state.<sup>109</sup> This exemption currently does not apply to the service member's spouse or dependents.

#### *Driver License Extensions for Military Personnel and Dependents*

Florida driver license holders are required to periodically renew their driver license<sup>110</sup> upon payment of the required renewal fees and successful passage of any required examination.<sup>111</sup> In an effort to process license renewals expeditiously, only examination of the licensee's eyesight and hearing is required.<sup>112</sup> The renewal fee for a Class E driver license is \$48. Those renewing a Class E driver license within 12 months after the expiration date of the license are subject to a \$15 delinquent fee.<sup>113</sup>

Florida law grants a military servicemember serving on active duty outside this state, and dependents residing with him or her, an automatic extension without reexamination for a Class E driver license that expires while performing such service.<sup>114</sup> This extension is valid for 90 days after the service member is either discharged or returns to the state of Florida to live.<sup>115</sup>

Upon a service member's application to the Department of Highway Safety and Motor Vehicles (DHSMV) certifying active duty status outside of Florida, the DHSMV issues a military extension card

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<sup>103</sup> FDVA 2014 Legislative Proposals.

<sup>104</sup> s. 322.03(1), F.S.

<sup>105</sup> s. 322.04(1)(c), F.S.

<sup>106</sup> See Attorney General's Opinion 78-164 (1978).

<sup>107</sup> s. 322.031(1), F.S.

<sup>108</sup> s. 322.031(2), F.S.

<sup>109</sup> s. 322.031(1), F.S.

<sup>110</sup> Pursuant to s. 322.18(4)(a), driver licenses are generally valid for 8 years.

<sup>111</sup> s. 322.18(4)(a), F.S.

<sup>112</sup> s. 322.121(1), F.S.

<sup>113</sup> s. 322.21(1)(c), F.S.

<sup>114</sup> s. 322.121(5), F.S.

<sup>115</sup> Id.

extending the driving privileges of the service member and his or her dependents.<sup>116</sup> The DHSMV currently recognizes a “dependent” as a service member’s spouse, children and step-children under the age of 21, living in the same household.<sup>117</sup>

### **Effect of Proposed Change**

The bill amends s. 322.031, F.S., to exempt an active duty military servicemember’s spouse, and dependents who reside with him or her, from obtaining a Florida driver license if a dependent of the servicemember enrolls in a Florida public school.

The bill amends s. 322.121, F.S., to clarify that the military servicemember’s spouse, and dependents who reside with him or her, are eligible for an automatic extension without reexamination for a Florida driver license that expires while he or she is stationed outside of Florida.

## **Florida Department of Business and Professional Regulation License Fee Waivers for Veterans (Section 13)**

### **Current Situation**

The Department of Business and Professional Regulation (DBPR) was established in 1993 with the merger of the Department of Business Regulation and the Department of Professional Regulation.<sup>118</sup> Section 455.213, F.S., provides the general provisions for issuance of professional licensure by the DBPR. The DBPR is the agency charged with licensing and regulating businesses and professionals in the State of Florida, including but not limited to, cosmetologists, veterinarians, real estate agents and pari-mutuel wagering facilities.<sup>119</sup> The current statute waives the initial licensing fee, the initial application fee and initial unlicensed activity fee for military veterans who have been honorably discharged from the United States Armed Forces within 24 months prior to applying for licensure.

### **Effect of Proposed Changes**

The bill amends s. 455.213, F.S., to extend the time allowed for the fee waiver from 24 months to 60 months. Further, the bill extends the waiver to include the spouse of a military servicemember.

## **Temporary Medical License for Military Servicemember (14-17)**

### **Current Situation**

#### **Health Care Practitioner Licensure**

The Department of Health (DOH), Division of Medical Quality Assurance (MQA) evaluates the credentials of all applicants for licensure, issues licenses, analyzes and investigates complaints, inspects facilities, assists in prosecuting practice act violations, combats unlicensed activity, and provides credentials and discipline history about licensees to the public.<sup>120</sup> MQA licenses and regulates seven types of facilities and 200-plus license types in more than 40 healthcare professions.<sup>121</sup> In Fiscal Year 2012-2013, MQA regulated a total of 1,091,306 health care practitioners in a total of 25,286 facilities/establishments.<sup>122</sup>

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<sup>116</sup> DHSMV, Military Extension Instructions For Military Personnel, Spouse and Dependents Temporarily Assigned Outside of Florida, available at: <http://www.flhsmv.gov/MilExtCard.pdf> (last viewed January 14, 2014).

<sup>117</sup> DHSMV website, How do I renew my license or ID card?, available at: <http://www.flhsmv.gov/ddl/renewing.html> (last viewed January 14, 2014).

<sup>118</sup> Chapter 93-220, L.O.F.

<sup>119</sup> DBPR website, available at: <http://www.myfloridalicense.com/dbpr/index.html> (last viewed January 14, 2014).

<sup>120</sup> FDOH, Division of Medical Quality Assurance (MQA), Reports and Publications, 2009-2010 Annual Report, available at: <http://www.doh.state.fl.us/mqa/reports.htm> (last viewed January 14, 2014).

<sup>121</sup> FDOH, MQA website, available at: <http://www.flhealthsource.com/> (last viewed January 14, 2014).

<sup>122</sup> FDOH, MQA, Reports and Publications, 2012-2013 Annual Report, available at: <http://www.doh.state.fl.us/mqa/reports.htm> (last viewed January 14, 2014).

All health care practitioners are required to comply with the licensing provisions specified for the health care profession and corresponding practice act<sup>123</sup> that they are seeking to be licensed under. The board (or DOH if there is no board), determines whether DOH should issue a license to practice in Florida.

In Fiscal Year 2009-2010, the average number of days to issue a license was 56.5 days.<sup>124</sup> This is calculated from the date an application is received by the Department to the date the license is issued. The application for licensure to become a medical doctor in Florida is 30 pages in length.<sup>125</sup>

#### Temporary Certificate for Practice in Areas of Critical Need

A physician is eligible to receive a temporary certificate to practice in an area of critical need (temporary certificate) if:<sup>126</sup>

- the physician holds a valid license to practice in any jurisdiction in the United States; or
- the physician has served as a physician in the United States Armed Forces for at least 10 years and received an honorable discharge from the military; and
- the physician pays an application fee of \$300.

An active duty military servicemember who has less than ten years of service is not eligible to receive a temporary certificate, unless he or she is currently licensed in another state.

The State Surgeon General is tasked with determining the areas of critical need.<sup>127</sup> Such areas may include a health professional shortage area designated by the United States Department of Health and Human Services.<sup>128</sup> The temporary certificate is valid for as long as the State Surgeon General determines that the reason for which it was issued remains a critical need to the state.<sup>129</sup> The temporary certificate may only be used in certain designated facilities in an area of critical need or other facilities approved by the State Surgeon General.<sup>130</sup> The Board of Medicine is required to review each temporary certificate holder annually to ensure compliance with the Medical Practice Act.<sup>131</sup>

The temporary certificate is also known as the Rear Admiral LeRoy Collins, Jr., Temporary Certificate for Practice in Areas of Critical Need. Rear Admiral LeRoy Collins, Jr. died July 29, 2010, in Tampa, Florida, at the age of 75. He was a native of Tallahassee and the son of former Florida Governor LeRoy Collins. He graduated from the U.S. Naval Academy in 1956, embarking upon a 34-year military career and retiring as a two-star Rear Admiral in 1990. In 2007, former Governor Charlie Crist appointed Admiral Collins the executive director of the Florida Department of Veterans' Affairs. Admiral Collins founded the Florida Veterans Foundation, Inc.

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<sup>123</sup> "Practice Acts" are in statute for each profession and establish the scope and standards of practice of the profession, and provide grounds for disciplinary action.

<sup>124</sup> Per email correspondence with DOH, MQA staff, March 17, 2011, on file with Health & Human Services Quality Subcommittee staff.

<sup>125</sup> Florida Board of Medicine, Medical Doctor – Unrestricted, Application, available at:

<http://www.flboardofmedicine.gov/licensing/medical-doctor-unrestricted/> (last viewed January 14, 2014).

<sup>126</sup> ss. 458.315(2)(a)-(b) and 459.0076(2)(a)-(b), F.S.

<sup>127</sup> ss. 458.315 (4)(a) and 459.0076(4)(a), F.S.

<sup>128</sup> Health Professional Shortage Areas (HPSAs) are defined in s. 332 of the Public Health Service Act, 42 U.S.C. 254e to include: (1) urban and rural geographic areas, (2) population groups, and (3) facilities with shortages of health professionals. The federal designation as a HPSA documents a shortage of health care providers (primary care, dental or mental health) as well as the existence of barriers to accessing care including lack of public transportation, travel time and distance to the next source of undesignated care and high poverty. To be eligible for designation, a geographic area or a population group (a low income or migrant population) must have a population-to-physician ratio greater than 3,000 to one. See Florida Department of Health, Division of Health Access and Tobacco, Office of Health Professional Recruitment, available at: <http://www.doh.state.fl.us/workforce/recruit1/shortdesig.html> (last viewed January 14, 2014).

<sup>129</sup> ss. 458.315(4)(c) and 459.0076(4)(c), F.S.

<sup>130</sup> ss. 458.315(4)(a)1. and 459.0076(4)(a)1., F.S.

<sup>131</sup> ss. 458.315 (4)(c) and 459.0076(4)(c), F.S.

After submitting the 27 page application, the estimated length of time it takes to receive a temporary certificate is between two to six months.<sup>132</sup>

### Volunteer Health Care Provider Program

In 1992, the Florida Legislature passed the "Access to Health Care Act," which created the Volunteer Health Care Provider Program (VHCPP).<sup>133</sup> The intent of this legislation was twofold: to increase access to health care for uninsured and underserved Floridians and to increase the number of health care volunteers through the extension of state-sponsored sovereign immunity protection.<sup>134</sup> Through VHCPP, government health care providers<sup>135</sup> employ volunteers to provide uncompensated health care services to low-income patients, with the protection of sovereign immunity.<sup>136</sup>

### Military Physicians<sup>137</sup>

A military physician in the Florida National Guard (Guard) who holds an active license to practice medicine in any other state or Puerto Rico, while serving as a medical officer in the Guard pursuant to federal or state orders, is expressly authorized to practice medicine on military personnel or civilians during an emergency, declared disaster, or during federal military training.<sup>138</sup>

A military physician of the U.S. Armed Forces and of the U.S. Public Health Service, while on active duty and while acting within the scope of his or her military or public health responsibilities, is not subject to the Florida Health Care Practitioner Licensure requirements.<sup>139</sup>

Military physicians often seek to volunteer at community medical clinics during their dwell time.<sup>140</sup> However, a military physician generally cannot perform medical care on civilians without a Florida medical license or temporary certificate.

The short length of dwell time, combined with the length of time it takes to receive a temporary certificate, makes it difficult for a military physician to obtain a temporary certificate and volunteer at a medical facility before he or she is redeployed.

### **Effect of Proposed Changes**

The bill amends ss. 458.315 and 459.0076, F.S., to remove the current language related to military and veteran physicians.

The bill creates ss. 458.3151 and 459.00761, F.S. to streamline the Florida Department of Health application requirements for a temporary certificate for practice in areas of critical need for applicants who are active duty military and veterans.

The bill requires a military or veteran physician to provide information regarding the volunteer work to be performed as well as proof of his or her credentials to perform such work without requiring redundant or unnecessary information, all while maintaining a strong vetting process in order to not compromise public safety.

The bill requires the Department of Health to issue a simplified application process, which does not request unnecessary and redundant information, and the Department is required to make a determination within ten days of receipt of a completed application.

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<sup>132</sup> Florida Board of Medicine, Temporary Certificate for Practice in Areas of Critical Need, Process, available at: <http://www.flboardofmedicine.gov/licensing/temporary-certificate-for-practice-in-areas-of-critical-need/> (last viewed January 14, 2014).

<sup>133</sup> s. 1, ch. 92-278, L.O.F.

<sup>134</sup> s. 766.1115(2), F.S.

<sup>135</sup> See s. 766.1115(3)(c)-(d), F.S. for a detailed description of the eligible health care providers.

<sup>136</sup> s. 766.1115(3)(a), F.S.

<sup>137</sup> 'Military physician' refers to any military servicemember who performs medical care while on active duty.

<sup>138</sup> s. 250.375, F.S.

<sup>139</sup> s. 458.303(c), F.S.

<sup>140</sup> 'Dwell time' refers to the time a military servicemember spends at a home after returning from deployment.

## **Florida Department of Business and Professional Regulation Prescription Drug Wholesale Distributor Permit (Section 18)**

### **Current Situation**

Chapter 2010-161, Laws of Florida, transferred the Drugs, Devices, and Cosmetics Regulatory Program and the administration of chapter 499, Florida Statutes, from the Department of Health to the Department of Business and Professional Regulation (DBPR), effective October 1, 2011.

Currently, prescription drug wholesale distributors are regulated by DBPR's Drugs, Devices, and Cosmetics division (DDC). All applicants and permittees must designate in writing at least one natural person to serve as the designated representative (certified designated representative).<sup>141</sup> Such person must have an active certification from the DBPR.<sup>142</sup> Part of the eligibility criteria to obtain a certification as a designated representative is having at least two years of either of the following types of verifiable, full-time work experience:<sup>143</sup>

- work experience in a pharmacy licensed in Florida or another state, provided the applicant's responsibilities included, but were not limited to, recordkeeping for prescription drugs; or
- managerial experience with a prescription drug wholesale distributor licensed in this state or another.

### **Effect of Proposed Changes**

The bill amends s. 499.012(16)(b)(3), to provide a third option to satisfy the work experience permit requirement, which states "managerial experience with the United States military, where the applicant's responsibilities included, but were not limited to, recordkeeping, warehousing, distribution, or other logistics services pertaining to prescription drugs."

## **Waiver of Out-of-state Fees for Veterans (Section 19)**

### **Current Situation**

#### **Tuition and Out-of-State Fees**

Under Florida law, "tuition" is defined as "the basic fee charged to a student for instruction provided by a public postsecondary educational institution in this state."<sup>144</sup> A student who is classified as a "resident for tuition purposes" is a student who qualifies for the in-state tuition rate.<sup>145</sup>

An "out-of-state fee" is "the additional fee for instruction provided by a public postsecondary education institution in this state, which fee is charged to a student who does not qualify for the in-state tuition rate."<sup>146</sup> A "non-resident for tuition purposes" is defined as a "person who does not qualify for the in-state tuition rate,"<sup>147</sup> and pays the out-of-state fee in addition to tuition.

Residents for tuition purposes are charged in-state rates for tuition while non-residents pay out-of-state fees in addition to tuition, unless such costs are exempted or waived.<sup>148</sup>

#### **Fee Exemptions and Fee Waivers**

Florida law provides fee exemptions<sup>149</sup> and fee waivers<sup>150</sup> to qualified students that meet specified criteria. A number of fee exemptions and fee waivers are permissive<sup>151</sup> while others are mandatory.<sup>152</sup>

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<sup>141</sup> s. 499.012(16)(a), F.S.

<sup>142</sup> *Id.*

<sup>143</sup> s. 499.012(16)(b)(3), F.S.

<sup>144</sup> s. 1009.01(1), F.S. Additionally, the definition states that "[a] charge for any other purpose shall not be included within this fee."

<sup>145</sup> s. 1009.21(1)(g), F.S.

<sup>146</sup> s. 1009.01(2), F.S. Adding that "[a] charge for any other purpose shall not be included within this fee."

<sup>147</sup> s. 1009.21(1)(e), F.S.

<sup>148</sup> ss. 1009.23(2)(a) and 1009.24(2), F.S.

<sup>149</sup> s. 1009.25, F.S.; see The Florida College System, *Exemptions and Waivers in The Florida College System*, available at:

<http://www.fldoe.org/fcs/OSAS/Evaluations/pdf/FY12012-02Exemptions.pdf> (last viewed January 14, 2014) (noting that "[a]n

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**DATE:** 2/3/2014

Regarding military personnel, Florida law provides a mandatory undergraduate fee waiver for “each recipient of a Purple Heart or another combat decoration superior in precedence” at a state university or Florida College System (FCS) institution.<sup>153</sup> The statute requires that the recipient:<sup>154</sup>

- (1) be in an undergraduate program that results in a certificate or degree;
- (2) is currently a resident of the state and was a resident at the time of the action that resulted in the awarding of the applicable combat decoration; and
- (3) provide the institution with appropriate documentation of the separation from service and receipt of the combat decoration.

The fee waiver for Purple Heart recipients, and recipients of superior combat decorations, covers 110 percent of the credit hours the recipient needs to complete the applicable degree or certificate program.<sup>155</sup> During 2011-2012, 168 students at FCS institutions received Purple Heart fee waivers totaling \$269,580.<sup>156</sup> At state universities, 46 students received Purple Heart fee waivers totaling \$151,896 during 2012-2013.<sup>157</sup>

Additionally, through one of the permissive fee waivers, the board of trustees at each state university, as well as school districts, and FCS institutions, are authorized to waive fees under certain conditions. The board of trustees of each state university is authorized to “waive tuition and out-of-state fees for purposes that support and enhance the mission of the university.”<sup>158</sup>

In 2011-2012, FCS institutions provided exemptions and fee waivers for 71,719 students, which totaled \$93,689,726.<sup>159</sup> Fee exemptions and fee waivers, respectively, totaled \$83,926,832 and \$9,762,894 within FCS institutions.<sup>160</sup> A total of \$205,824,039 in fee exemptions and fee waivers were provided by state universities during 2012-2013.<sup>161</sup>

#### Tuition Assistance for Veterans

States and institutions of higher education across the nation use an array of options and criteria to apply in-state tuition rates to veterans. The differing means of granting in-state tuition to veterans, through state law or institutional policy, and the varying eligibility requirements to receive the benefit, create a range of options when providing tuition assistance to veterans. For example, some states:

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exemption is provided for certain students who are, by statutory definition, exempt from the payment of tuition and fees, including lab fees”).

<sup>150</sup> s. 1009.26, F.S.; see The Florida College System, *Exemptions and Waivers in The Florida College System*, available at: <http://www.fldoe.org/fcs/OSAS/Evaluations/pdf/FYI2012-02Exemptions.pdf> (last viewed January 14, 2014) (providing that a “waiver occurs when a student has his or her fees, which would otherwise be due, waived or forgiven by an institution”).

<sup>151</sup> s. 1009.25(2), F.S. (authorizing each FCS institution to grant additional fee exemptions “up to 54 full-time equivalent students or 1 percent of [an] institution’s total full-time equivalent enrollment, whichever is greater at each institution”); ss. 1009.26(1)-(4), (6), (9), (10), (11), F.S.

<sup>152</sup> s. 1009.25(1)(a)-(g), F.S.; s. 1009.26(5), (7), (8), F.S.

<sup>153</sup> s. 1009.26(8), F.S.

<sup>154</sup> s. 1009.26(8)(a)-(c), F.S.

<sup>155</sup> s. 1009.26(8), F.S.

<sup>156</sup> Email from the Florida Department of Education, December 11, 2013, On file with Senate Committee on Education.

<sup>157</sup> Email from the Board of Governors of the State University System of Florida, December 11, 2013, On file with Senate Committee on Education.

<sup>158</sup> s. 1009.26(9), F.S. (noting that fee waivers under this section must be grounded in policies adopted by the state university board of trustees under regulations adopted by the Board of Governors).

<sup>159</sup> Email from the Florida Department of Education, December 11, 2013, On file with Senate Committee on Education.

<sup>160</sup> Email from the Florida Department of Education, December 11, 2013, On file with Senate Committee on Education. The calculation of fee exemptions the exemptions provided under s. 1009.25(2), F.S., which totaled \$7,912,717 for 2,691 students and the exemptions under s. 1009.25(1), F.S.

<sup>161</sup> Email from the Board of Governors of the State University System of Florida, December 11, 2013, On file with Senate Committee on Education.

- provide for veterans to be charged in-state tuition without a residency requirement;<sup>162</sup>
- require that a veteran be permanently stationed in the state<sup>163</sup> or be a resident of the state and meet an additional requirement to be a resident for admission and tuition purposes;<sup>164</sup>
- do not require that residency be demonstrated but may require continuous enrollment and some form of documentation that is relevant to state residency;<sup>165</sup>
- provide a specific waiver of the in-state residency requirement for residents living out-of-state but within a certain radius of the institution being attended.<sup>166</sup>

Additionally, some laws authorize institutions of higher education to develop policies and criteria that provide fee waivers to eligible veterans.<sup>167</sup>

#### U.S. Department of Veterans Affairs Education Benefits Program

The USDVA provides financial assistance programs to eligible veterans and dependents pursuing postsecondary education. The USDVA currently administers the following federal educational assistance programs:

<sup>162</sup> E.g., MISS. CODE ANN. §37-103-25(2)(b) (requiring that the student need only be a veteran of the Armed Forces); MISS. CODE ANN. §37-103-25(2)(c) (assessing an in-state tuition fee to a nonresident student who is “domiciled in Mississippi no later than six (6) months after . . . separation from service . . . for the purpose of enrolling in a state institution of higher learning or a community or junior college”); see also VA. CODE ANN. §23-7.4(B) (waiving the one year residency requirement for “retired military personnel residing in the Commonwealth at the time of their retirement, or veterans, or the domiciliary intent of their dependent spouse or children who claim domicile through them, who voluntarily elect to establish Virginia as their permanent residence for domiciliary purposes”).

<sup>163</sup> E.g., LA. REV. STAT. ANN. §17:2137(D) (establishing that honorably discharged veterans (and their dependents) who were permanently stationed in the state as members of the Armed Forces and continuously reside in the state upon discharge qualify for resident tuition fees).

<sup>164</sup> E.g., ALA. CODE §16-64-2(b)(1)c. (providing residency status for admission and tuition purposes to a veteran who “has become a resident of Alabama and satisfies at least one of the following conditions,” where the veteran has: served on active duty for two or more years with an honorable discharge within five years of attending a public school in Alabama; is currently serving in a reserve component of the Armed Forces; or has a service-related disability as determined by the USDVA); LA. REV. STAT. ANN. §17:2137(E) (granting residency for tuition purposes to a veteran of the Armed Forces who resides in the state for the duration of enrollment in a public college or university, except for tuition fees of a veteran who is eligible for the Yellow Ribbon Program; has served for two or more years and was honorably discharged one year prior to enrollment; is in a Reserve Component of the Armed Forces; or has a service-related disability as documented by the USDVA).

<sup>165</sup> ARIZ. REV. STAT. §15-1802(G) (giving automatic in-state student classification to honorably discharged veterans who are continuously enrolled and have: (1) registered to vote in Arizona, and (2) shown intent to become an Arizona resident through: an Arizona driver’s license, vehicle registration, employment history, movement of significant banking services to the state, providing a permanent state address on “pertinent documents,” or through other documents relevant to residency status); TEX. EDUC. CODE ANN. §54.241(i) (granting an honorably discharged veteran (and the veteran’s spouse and dependent children) with in-state costs at a state institution “for any term or semester at a state institution of higher education that begins before the first anniversary of the member’s separation from the Armed Forces” and provided that subsection (d) requirements relating to residency are also met); see also TEX. EDUC. CODE ANN. §54.241(k) (stating that a person is entitled to in-state tuition rates, regardless of residency, if the individual is eligible for federal veteran education benefits and files a letter of intent with the institution to establish residency in Texas).

<sup>166</sup> E.g., ALA. CODE §16-64-62(b)(1)d. (stating that “an out-of-state veteran who resides within 90 miles of a campus located in Alabama and has enrolled at an institution whose board of trustees has voted to allow nonresident in-state tuition for active and retired military” shall be considered a resident student).

<sup>167</sup> E.g., GA. CONST. art. 8, §7, ¶IV (authorizing the Board of Regents of the University System of Georgia “to establish programs allowing attendance at units of the University System of Georgia without payment of tuition or other fees . . . .”); MISS. CODE ANN. §37-103-25(3)-(4); WASH. REV. CODE §23B.15.621(2) and (3) (providing that the governing boards of universities and colleges “may waive all or a portion of tuition and fees” for national guard members and eligible veterans); University System of Georgia, *Board of Regents Policy Manual*, available at: <http://www.usg.edu/policymanual/section7/C453/>, §7.3.4.1 (last viewed January 14, 2014) (creating an out-of-state tuition waiver for recently separated members of the military, and their spouses and dependent children, who enroll and show an intent to become a Georgia resident within 12 months of separation from the military); University of Washington, Veterans Center, Division of Student Life, *Tuition Waivers*, available at: <http://www.washington.edu/students/veteran/waiver.shtml> (last viewed January 14, 2014) (giving a waiver of 50 percent of the in-state tuition and fee rate to an honorably discharged veteran, seeking a first baccalaureate degree, for up to 225 college-level credits, who is a “Washington domiciliary,” served in a “war or conflict on foreign soil or in international waters[,] or in another location in support of those serving on foreign soil or in international waters,” and providing a similar waiver at the graduate and professional level if the individual has not previously received a tuition waiver for veterans from the University of Washington).

- **Montgomery GI Bill – Active Duty Educational Assistance Program (MGIB-AD)**<sup>168</sup>
  - The MGIB-AD provides educational assistance to persons who served on active duty in the Armed Forces.<sup>169</sup> Active duty members make an initial contribution<sup>170</sup> and are subsequently entitled to receive a monthly education benefit<sup>171</sup> once they have completed a minimum service obligation.<sup>172</sup>
- **Montgomery GI Bill – Selected Reserve Educational Assistance Program (MGIB-SR)**<sup>173</sup>
  - The MGIB-SR provides educational assistance to members of the reserve components of the Armed Forces. Reservists must be actively drilling and have a 6-year obligation in the reserves to be eligible.<sup>174</sup>
- **Educational Assistance Survivors’ and Dependents’ Program (DEA)**<sup>175</sup>
  - DEA is a monetary educational benefit payable to eligible dependents and survivors of certain veterans.<sup>176</sup>
- **Veterans Educational Assistance Program (VEAP)**<sup>177</sup>
  - VEAP is an education benefit for veterans who entered service for the first time between December 31, 1976 and July 1, 1985. Although there are still some veterans who use this program, it ended for new enrollees June 30, 1985.<sup>178</sup>
- **Reserve Educational Assistance Program (REAP)**<sup>179</sup>
  - REAP provides educational assistance to National Guard members and reservists who are called to active duty in response to a war, national emergency, or contingency operation as declared by the President or Congress on or after September 11, 2001.<sup>180</sup>
- **Post-9/11 GI Bill Program**<sup>181</sup>
  - The Post-9/11 GI Bill is the newest educational assistance program that provides financial support for education and housing to individuals with at least 90 days of

<sup>168</sup> 38 U.S.C. §§3001-3035.

<sup>169</sup> 38 U.S.C. §3011(a).

<sup>170</sup> 38 U.S.C. §3011(b)(1) (stating that “the basic pay of any individual described in subsection (a)(1)(A) of this section who does not make an election under (c)(1) of this section shall be reduced by \$100 for each of the first 12 months that such individual is entitled to such pay”).

<sup>171</sup> 38 U.S.C. §3014 (providing that the educational assistance is to help meet the costs of an individual’s “subsistence, tuition, fees, supplies, books, equipment, and other educational costs” and that the maximum duration of benefits is 36 months); USDVA, The Montgomery GI Bill, available at: [http://www.benefits.va.gov/gibill/montgomery\\_bill.asp](http://www.benefits.va.gov/gibill/montgomery_bill.asp) (last viewed January 14, 2014).

<sup>172</sup> 38 U.S.C. §3011(a)(1) (outlining the minimum service obligations depending upon when an individual began active duty).

<sup>173</sup> 10 U.S.C. §§16131-16136.

<sup>174</sup> 10 U.S.C. §§16131(a), 16132(a); Department of Veterans Affairs, The Montgomery GI Bill-Selected Reserve, available at: [http://www.benefits.va.gov/gibill/montgomery\\_bill.asp](http://www.benefits.va.gov/gibill/montgomery_bill.asp) (last viewed January 14, 2014).

<sup>175</sup> 38 U.S.C. §§3500-3566.

<sup>176</sup> 38 U.S.C. §3501(a)(1) (defining an “eligible person” as: the child of an individual who died or has a permanent and total disability as a result of service; the spouse of an individual who died due to service-related disability; the spouse or child of an individual who, for 90 days, is missing in action, captured, or forcibly detained in the line of duty, or who is receiving certain medical care and may be released or discharged due to a service-related disability); USDVA, Dependents’ Educational Assistance Program (DEA), available at: [http://www.benefits.va.gov/gibill/survivor\\_dependent\\_assistance.asp](http://www.benefits.va.gov/gibill/survivor_dependent_assistance.asp) (last viewed January 14, 2014).

<sup>177</sup> 38 U.S.C. §§3201-3243.

<sup>178</sup> 38 U.S.C. §§3201, 3202(1)(A).

<sup>179</sup> 10 U.S.C. §§16161-16166.

<sup>180</sup> 10 U.S.C. §16163(a).

<sup>181</sup> 38 U.S.C. §§3301-3325.

aggregate service on or after September 11, 2001,<sup>182</sup> or individuals discharged with a service-connected disability after 30 continuous days of active duty service.<sup>183</sup>

- Individuals may be eligible for up to 36 months of education benefits and eligibility generally expires 15 years from the date of the last discharge or release from active duty service.<sup>184</sup>
- The Post-9/11 GI Bill provides beneficiaries the cost of tuition and fees, not to exceed the most expensive in-state undergraduate tuition at a public higher education institution in the state in which the individual is attending school.<sup>185</sup>
- An individual is eligible for a fixed percentage of the payments authorized under the Post-9/11 GI Bill based on an individual's amount of creditable active duty service since September 11, 2001.<sup>186</sup>

- **Yellow Ribbon GI Education Enhancement Program (Yellow Ribbon Program)**

- The Yellow Ribbon Program was created within the Post-9/11 GI Bill program as a means to partially or fully fund tuition and fee expenses that exceed the established thresholds under the Post-9/11 GI Bill.<sup>187</sup>
- Participation in the Yellow Ribbon Program is limited to veterans entitled to the maximum Post-9/11 GI Bill benefit rate (based on service requirements) or their designated transferees.<sup>188</sup>
- Both public and private colleges and universities are able to voluntarily participate in the Yellow Ribbon Program through an agreement with the USDVA.<sup>189</sup>
- The USDVA will match an institution's contributions, not to exceed 50 percent of the difference.<sup>190</sup>
- Currently, two FCS institutions and four State University System institutions are listed as Yellow Ribbon Program participants.<sup>191</sup>

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<sup>182</sup> 38 U.S.C. §3311(b)(8).

<sup>183</sup> 38 U.S.C. §3311(b)(2)(B). The Post-9/11 GI Bill, which became effective on August 1, 2009, provides the most comprehensive set of education benefits since the original GI Bill of 1944. USDVA Veterans Benefits Administration, *Annual Benefits Report: Fiscal Year 2011*, available at: [http://www.vba.va.gov/REPORTS/abr/2011\\_abr.pdf](http://www.vba.va.gov/REPORTS/abr/2011_abr.pdf), 37 (last viewed January 14, 2014). It is also the most widely utilized of all USDVA education programs. See page 40 of the annual report, which provides programmatic statistics from 2007-2011 and demonstrates that the Post-9/11 GI Bill program had more beneficiaries than any other program in 2010 and 2011.

<sup>184</sup> 38 U.S.C. §3321(a).

<sup>185</sup> USDVA, *Yellow Ribbon Program*, available at: [http://www.gibill.va.gov/School\\_Info/yellow\\_ribbon/](http://www.gibill.va.gov/School_Info/yellow_ribbon/) (last viewed January 14, 2014). The Post-9/11 GI Bill also provides a monthly housing allowance and a yearly stipend for books and supplies. Post-9/11 GI Bill benefits are allowed to be used for approved training, which includes: graduate and undergraduate degrees, non-college degree programs for vocational and technical training, apprenticeship and on-the-job training, flight training, correspondence training, certification and licensing, national testing programs, entrepreneurship training, and a tutorial assistance program.

<sup>186</sup> 38 U.S.C. §3313(c)(1)-(7); USDVA, Post 9/11 GI Bill, available at: [http://www.benefits.va.gov/gibill/post911\\_gibill.asp](http://www.benefits.va.gov/gibill/post911_gibill.asp) (last viewed January 14, 2014).

<sup>187</sup> 38 U.S.C. §3317(a) (defining the purpose of the Yellow Ribbon GI Educational Enhancement Program as a means of covering a portion of the expenses not covered by 38 U.S.C. §3313).

<sup>188</sup> USDVA, Educational Programs Home, available at: [http://www.benefits.va.gov/gibill/education\\_programs.asp](http://www.benefits.va.gov/gibill/education_programs.asp) (last viewed January 14, 2014). Veterans entitled to less than the maximum benefit rate and active duty servicemembers and their spouses are not eligible for this program.

<sup>189</sup> 38 U.S.C. §3317(a), (c); see USDVA, *Yellow Ribbon Program Information 2012-2013 School Year*, available at: [http://www.benefits.va.gov/gibill/yellow\\_ribbon/yrp\\_list\\_2012.asp](http://www.benefits.va.gov/gibill/yellow_ribbon/yrp_list_2012.asp) (select "Florida" in the state list) (last viewed January 14, 2014).

<sup>190</sup> 38 U.S.C. §3317(d)(1).

<sup>191</sup> USDVA, *Florida State Yellow Ribbon Program Information 2013-2014*, available at: [http://www.benefits.va.gov/gibill/yellow\\_ribbon.asp](http://www.benefits.va.gov/gibill/yellow_ribbon.asp) (last viewed January 14, 2014). The FCS institutions listed as participants are: the State College of Florida, Manatee-Sarasota (providing \$4,320.00 per student per year for a maximum of 20 students) and Gulf Coast State College, which is currently noted as providing \$0.00 per student per year for zero students. The SUS institutions listed as participants are: Florida State University (providing an unlimited amount per student per year for an unlimited amount of students); University of Central Florida (providing \$6,000.00 per student per year for 30 undergraduate students; \$6,800.00 per student per year for 10 graduate students; and \$20,000 per student per year for 10 medical students); University of South Florida (providing \$6,000.00 per student per year for 24 undergraduate students; \$6,500.00 per student per year for 10 masters students; and \$2,100.00 per student per year for 4 medicine students); and University of West Florida (providing an unlimited amount per student per year for 250 students from all degree levels).

According to the USDVA, for fiscal year 2012,<sup>192</sup> the state of Florida had the third highest number of USDVA education beneficiaries (using one or more of the federal education assistance programs described above) in the nation with 62,911 beneficiaries, behind Texas (71,331) and California (83,574).<sup>193</sup> The number of USDVA education program beneficiaries in Florida has steadily increased since fiscal year 2000 (see Figure One below).<sup>194</sup> Total USDVA education program payments to Florida beneficiaries for fiscal year 2012 was \$702,492,751.<sup>195</sup>

<b>Figure One USDVA Education Beneficiaries in Florida</b>	
<b>Fiscal Year</b>	<b>Total Florida Beneficiaries</b>
2000	25,556
2001	26,598
2002	28,394
2003	29,551
2004	31,815
2005	31,791
2006	32,193
2007	33,963
2008	36,088
2009	36,394
2010	59,519
2011	68,133
2012	62,911

During fiscal year 2012, there were 42,607 Post-9/11 GI Bill beneficiaries in Florida.<sup>196</sup> The Post-9/11 GI Bill only covers the highest in-state undergraduate tuition,<sup>197</sup> therefore, a non-resident veteran would be responsible for the total costs that exceed the in-state tuition amount, unless the veteran attends an institution that voluntarily participates in the Yellow Ribbon Program.

### **Effect of Proposed Changes**

Currently, non-residents, including non-resident veterans, must meet the residency requirements of s. 1009.21, F.S., to be charged in-state tuition. Without a specifically authorized fee exemption or waiver, non-resident students pay out-of-state fees in addition to the basic tuition fee rates.

The bill amends s. 1009.26, F.S., to create the “Congressman C.W. Bill Young Veteran Tuition Waiver Act” and to provide a mandatory out-of-state fee waiver for honorably discharged veterans of the U.S.

<sup>192</sup> Fiscal year 2012 is the most recent year for which data are currently available regarding the number of USDVA education beneficiaries. USDVA, *Department of Veterans Affairs Education Program Beneficiaries by Geography: FY2000 to FY2012*, available at: <http://www.va.gov/vetdata/Utilization.asp> (select “Benefit Programs” tab; then follow the hyperlink titled “Department of Veterans Affairs Education Program Beneficiaries by Geography: FY2000 to FY2012”) (last viewed January 14, 2014).

<sup>193</sup> USDVA, *Department of Veterans Affairs Education Program Beneficiaries by Geography: FY2000 to FY2012*, available at: <http://www.va.gov/vetdata/Utilization.asp> (select “Benefit Programs” tab; then follow the hyperlink titled “Department of Veterans Affairs Education Program Beneficiaries by Geography: FY2000 to FY2012”) (last viewed January 14, 2014).

<sup>194</sup> *Id.*

<sup>195</sup> Email from the National Center for Veterans Analysis and Statistics, September 23, 2013, On file with Senate Committee on Education.

<sup>196</sup> USDVA, *Department of Veterans Affairs Education Program Beneficiaries by Geography: FY2000 to FY2012*, available at: <http://www.va.gov/vetdata/Utilization.asp> (select “Benefit Programs” tab; then follow the hyperlink titled “Department of Veterans Affairs Education Program Beneficiaries by Geography: FY2000 to FY2012”) (last viewed January 14, 2014).

<sup>197</sup> USDVA, Yellow Ribbon Program, available at: [http://www.benefits.va.gov/gibill/yellow\\_ribbon.asp](http://www.benefits.va.gov/gibill/yellow_ribbon.asp) (last viewed January 14, 2014).

Armed Forces, including the National Guard and a reserve component thereof, who reside in the state while enrolled at a state university or Florida College System (FCS) institution.

### **Effective Date (Section 20)**

The bill is effective July 1, 2014.

#### **B. SECTION DIRECTORY:**

Section 1: Amends s. 250.10, F.S., to revise participation requirements for the Educational Dollars for Duty program.

Section 2: Provides \$1 million in nonrecurring funds for information technology upgrades to accommodate the Educational Dollars for Duty Program.

Section 3: Amends s. 250.35, F.S., to update references with respect to courts-martial.

Section 4: Creates s. 265.004, F.S., to create the Florida Veterans' Walk of Honor and the Florida Veterans' Memorial Garden.

Section 5: Amends s. 295.065, F.S., to revise and provide governmental employment preference for certain persons.

Section 6: Amends s. 295.07, F.S., to revise and provide governmental employment preference for certain persons.

Section 7: Amends s. 295.08, F.S., to revise and provide governmental employment preference for certain persons.

Section 8: Amends s. 295.085, F.S., to revise and provide governmental employment preference for certain persons.

Section 9: Amends s. 296.06, F.S., to revise the eligibility requirements for residency in the Florida State Veterans' Domiciliary Home.

Section 10: Amends s. 296.36, F.S., to revise the eligibility requirements for residency in a state veterans' nursing home.

Section 11: Amends s. 322.031, F.S., to extend the current law driver license exemption to the servicemember's spouse, and dependents that reside with the servicemember.

Section 12: Amends s. 322.121, F.S., to extend the automatic license extension provision to a servicemember's spouse, and dependents that reside with the servicemember.

Section 13: Amends s. 455.213, F.S., to extend the application deadline for military veterans to have certain fees waived by the Department of Business and Professional Regulation and waiving such fees for the spouses of veterans.

Section 14: Amends ss. 458.315, F.S., to remove the current language related to military and veteran physicians that is contained in s. 458.315 and places the language in the newly created s. 458.3151.

Section 15: Creates s. 458.3151, F.S., to streamline the application process for military and veteran physicians wishing to obtain a temporary certificate to practice in an area of critical need.

Section 16: Amends s. 459.0076, F.S., to remove the current language related to military and veteran osteopathic physicians that is contained in s. 459.0076 and places the language in the newly created s. 459.00761.

Section 17: Creates s. 459.00761, F.S., to streamline the application process for military and veteran osteopathic physicians wishing to obtain a temporary certificate to practice in an area of critical need.

Section 18: Amends s. 499.012, F.S., to provide that specified military service meets certain DBPR licensure requirements.

Section 19: Amends s. 1009.26, F.S., to direct state universities and Florida College System institutions to waive certain fees for veterans.

Section 20: Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

See Fiscal Comments.

#### 2. Expenditures:

See Fiscal Comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

See Fiscal Comments.

#### 2. Expenditures:

See Fiscal Comments.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

### D. FISCAL COMMENTS:

**Section 1** revises the Florida National Guard's Educational Dollars for Duty program. The bill appropriates \$14.5M in recurring General Revenue to fund the tuition and fees for all deployed FNG members (on or after October 31, 2013). As of October 31, 2013, 586 FNG members were deployed.

	<u>Average Cost/Student (2013-2014 Academic Year)</u>	<u>Average Cost/All Students (2013-2014 Academic Year)</u>	<u>Total Four-Year Cost All Students</u>
<b>Four-Year Degree at State University System Institution</b>	<b>\$6,155*</b>	<b>\$3,606,830*</b>	<b>\$14,427,320*</b>
Resident Undergraduate, Full-time student Two Semesters (30 credit hours)	*Figure is derived from average in-state rate across all 13 SUS institutions	*\$6,155 x 586 FNG members	*\$3,606,830 x 4 years
UF, FSU, FAMU, USF-T, USF-SP, USF-SM, FAU, UWF, UCF, FIU, UNF, FGCU, NCF			

**Section 2** appropriates \$1M in nonrecurring General Revenue to the Florida Department of Military Affairs for information technology upgrades necessary to administer and audit the EDD program.

**Sections 5-8** revise Florida's veterans' preference in employment statutes. Between 2007 and 2010,

the FDVA received an average of approximately 136 complaints per year from veterans alleging that a government employer violated the veterans' employment preference requirements. However, the average increased to 925 complaints per year between 2011 and 2013, primarily due to increased awareness of the complaint process. Allowing a broader field of persons to claim veterans' preference may result in an increase in the number of complaints; however, the frequency and cost of potential future complaints is indeterminate. According to the FDVA, any additional complaints will be processed by the full-time employee currently assigned to the program. It should also be noted that s. 295.11, F.S., requires the FDVA to conduct all investigations within existing amounts appropriated to the FDVA.

If the number of complaints increases as a result of the proposed changes, PERC may also experience an increase in the number of complaints it must investigate and adjudicate. The frequency and cost of potential future complaints is indeterminate.

**Sections 9 and 10** revise the residency requirements for admission to the Florida State Veterans' Domiciliary Home and the state veterans' nursing homes. The FDVA states that fulfilling the vacant beds in the SVDH and SVNHS would not increase the cost of operating such facilities.<sup>198</sup>

**Sections 11 and 12** extend a current law driver license exemption and current law driver license extension to include the servicemember's spouse, and dependents who reside with him or her. The DHSMV anticipates an insignificant reduction in General Revenue as a result of this bill. The Revenue Estimating Conference met on January 31, 2014, and projected a negative indeterminate cost impact on this provision.

**Section 13** revises the Florida Department of Business and Professional Regulation licensure fee waiver program for veterans. The fiscal impact is indeterminate. Since October 1, 2012 (the effective date of Ch. 2012-72, L.O.F.), the department has received requests from military veterans for waivers of 113 initial applications and 21 initial licenses; of these applications and licenses, nine (9) applications and three (3) licenses were for professions requiring more than 24 months of education and/or experience to qualify for licensure. The total amount of fees waived was \$17,867.50 (\$13,810.50 initial applications, \$3,952.00 initial licenses and \$105.00 unlicensed activity fee).

The department anticipates future requests for fee waivers to be consistent with past requests. Given the low number of waivers from past applicants and licensees for professions requiring greater than 24 months of qualification education and/or experience, the department is unable to accurately estimate the fiscal impact of extending the waiver period from 24 months to 60 months. However, the department does not anticipate a significant increase in waiver requests due to the provisions of this bill.

**Sections 14 through 17** amend the requirements for medical doctors and osteopathic physicians who are seeking a temporary certificate to practice in an area of critical need (ACN) permitting licensure to any person who has a license in another jurisdiction; reduces the amount of time the boards can approve or deny the application from 60 to 10 days; requires the boards to create a simplified application which does not request information from the applicant that is accessible through the Department's licensing database or information that was already required for licensure in another jurisdiction; creates a new section in Chapters 458 and 459, Florida Statutes which is specifically for physicians who are active duty military or veterans seeking employment in an area of critical need only making this option available to active duty military and veterans that served at least 10 years and who were honorably discharged and who have an active license in another jurisdiction. There is no application fee for physicians seeking this certificate. This certificate is limited to physicians who will not receive compensation for their service.

The Division of Medical Quality Assurance may experience a decrease in revenue due to the waiver of fees for honorably discharged veterans and active military that apply for licensure. Section 456.013(13), F.S., currently waives the initial licensure fees for honorably discharged veterans who apply for licensure within 24 months after discharge, therefore the reduction in revenue would only

apply for veterans who apply after 24 months from discharge and active military. In Fiscal Year 2012-13 there were 61 applications received for ACN. It is unknown how many of the 61 applications were active military or veterans; therefore, the impact cannot be determined, however it is anticipated that the impact will be minimal and can be absorbed within current agency resources. The department will also incur nonrecurring cost for rulemaking which can also be absorbed within current agency resources.

**Section 19** waives the out-of-state fee and tuition charges for honorably discharged veterans attending a higher education institution within the Florida College System or the State University System of Florida. Consistent with a similar fee waiver provision for recipients of a Purple Heart or another combat decoration superior in precedence, the fee waiver authorized by the bill covers 110 percent of the credit hours needed to complete the degree or certificate program in which the veteran is enrolled. State universities and FCS institutions must report to the Board of Governors and the State Board of Education, respectively, the number and value of all fee waivers granted annually under the Congressman C.W. Bill Young Veteran Tuition Waiver Act.

Student veterans who would qualify for the out-of-state fee and tuition waiver would be exempt from paying the out-of-state fee resulting in a significant savings to the student veteran each semester. However, Florida colleges and universities will experience a significant loss in tuition and fee revenue. Using 2012-13 enrollment information based on each veteran student taking 30 credit hours, the total estimated annual unrealized tuition revenue as a result of the bill for the Florida College System is \$3,328,872 which is approximately 0.38 percent of the total tuition and fees collected by Florida colleges. Using the same methodology to determine the impact, the estimated annual unrealized tuition revenue as a result of the bill for the State University System is \$8,196,185 which is approximately 0.46 percent of the total tuition and fees collected by state universities.

Using enrollment figures for academic year 2012-13, it can be estimated that Florida colleges would forego the following in tuition revenues:

Average 2013-14 undergraduate tuition and fees for two semesters (30 hours):

\$11,455	Non-resident undergraduate tuition and fees
- <u>\$ 3,091</u>	Resident undergraduate tuition and fees
\$ 8,364	Incremental charge for non-residents
<u>x 398</u>	Non-resident undergraduate and unclassified veteran students
= \$3,328,872	Tuition revenues not collected as a result of the bill

Using enrollment figures for academic year 2012-13, it can be estimated that the state universities would forego the following in tuition revenues:

Average 2013-14 undergraduate tuition and fees for two semesters (30 hours):

\$21,434	Non-resident undergraduate tuition and fees
- <u>\$ 6,155</u>	Resident undergraduate tuition and fees
\$15,279	Incremental charge for non-residents
<u>x 331</u>	Non-resident undergraduate and unclassified veteran students
= \$5,057,349	Undergraduate tuition revenues not collected as a result of the bill

Average 2013-14 graduate-level tuition and fees for two semesters (24 hours):

\$25,138	Non-resident graduate tuition and fees
- <u>\$10,262</u>	Resident graduate tuition and fees
\$14,876	Incremental charge for non-residents
<u>x 211</u>	Non-resident graduate-level veteran students
= \$3,138,836	Graduate tuition revenues not collected as a result of the bill

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

#### RULE-MAKING AUTHORITY:

**Section 1** requires the Adjutant General to adopt rules that include, but are not limited to, providing a framework for approving online courses, courses that are a part of the Complete Florida Degree Program, courses leading to a degree offered by a Florida College System institution as part of the Governor's \$10,000 Degree Challenge. The bill also requires the Adjutant General to adopt rules that include procedures to facilitate the award of academic credit for college-level training and education acquired in the military.

#### B. DRAFTING ISSUES OR OTHER COMMENTS:

**Sections 9 and 10** revise the residency requirements for admission to the Florida State Veterans' Domiciliary Home and the state veterans' nursing homes. The VA pays a per-diem for the residents and pays for all the care for those veterans with a service-connected disability rating from 70%-100%. If the FDVA could admit these new residents into our veteran's nursing homes, the FDVA predicts a savings to the state due to their eligibility to have the USDVA pay for their care.<sup>199</sup>

**Sections 11 and 12** extend a current law driver license exemption and current law driver license extension to include the servicemember's spouse, and dependents who reside with him or her. As currently written, the bill is unclear whether the spouse and dependents must reside with the servicemember, or whether only the dependents must reside with the servicemember.

In order to provide identification for voter registration, the voter registration applicant must provide either a valid Florida driver's license number or a valid Florida identification card number. However, if the applicant was not issued a Florida driver license or identification card, the applicant must provide the last four digits of his or her social security number. Thus, the spouse or dependent of a military servicemember who does not have a Florida driver license may still register to vote in Florida.

**Section 13** revises the Florida Department of Business and Professional Regulation licensure fee waiver program for veterans. There have been approximately 120 fee waivers in the Division of Professions since HB 887 was implemented in July 2012. There will be no impact to the Customer Contact Center of the Division of Service Operations. The Bureau of Central Intake and Licensure will require an update on form DBPR MVL 002 to change the two references from 24 months to 60 months. No additional resources will be needed.

### IV. AMENDMENTS / COMMITTEE SUBSTITUTE CHANGES

On Monday, January 13, 2014, the Veteran & Military Affairs Subcommittee adopted several amendments to PCB VMAS 14-01. These amendments revised PCB VMAS 14-01 in the following ways:

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<sup>199</sup> See FDVA White Paper and OPPAGA Justification Review, Report No. 01-63, December 2001.

- extended a current law driver license exemption and current law driver license extension to the spouse and dependent child of a military servicemember who reside with him or her;
- revised the Florida Department of Health application requirements for a temporary certificate for practice in areas of critical need;
- clarified the Educational Dollars for Duty grade verification procedure applies to each student participating in the EDD program;
- required the Adjutant General to adopt procedures to facilitate the award of academic credit for college-level training and education acquired in the military; and
- clarified that the waiver of out-of-state tuition and fees applies to veterans of the United States Reserve Forces in addition to veterans of the United States Armed Forces and veterans of the National Guard.

This bill analysis is written to PCB VMAS 14-01 as amended.